IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4432 OF 2005
ALONG WITH
CRIMINAL APPLICATION NO. 4433 OF 2005
CRIMINAL APPLICATION NO. 4434 OF 2005
AND
CRIMINAL APPLICATION NO. 4435 OF 2005

Shivratan Kumar Pandey. ... Applicant.
(In all the Applications)

Versus.

The State of Maharashtra & anr. ... Respondents.
(In all the Applications)

Shri Nitin Pradhan i/by Ms.S.D.Khot for the Applicants in all the applications.

Ms.Rajashree Gadhvi, A.P.P. for the Respondents in C.A.No.4432/05.

Shri K.V.Saste, A.P.P. for the Respondents in C.A.No.4433/05.

Ms.M.H.Mhatre, A.P.P. for the Respondents in C.A.No.4434/05.

Shri R.Y.Mirza, A.P.P. for the Respondents in C.A.No.4435/05.

CORAM : ABHAY S. OKA, J.

DATED : 17th August, 2005.

P.C.:

1. Heard Shri Pradhan appearing for the Applicants in all the four Applications and the learned A.P.P. for the State. As the Applicant in all the four Applications is the same, the Applications are disposed of by a common order.

2. At the outset the learned A.P.P. raised a

preliminary objection. The said preliminary objection is that the Applicants have not approached the concerned Sessions Court by filing applications for the bail. Though there is a substance in the said preliminary objection, in view of the order dated 26th April, 2005 passed by this Court in Criminal Application No.1215 of 2005, this objection cannot be upheld. It is not in dispute that the Applicant filed Criminal Application No.1215 of 2005 in this Court seeking bail in 26 different Criminal Cases registered against the Applicant at different places in the State of Maharashtra. By order dated 26th April, 2005, this Court permitted the Applicant to file separate bail applications in respect of the respective criminal cases. In view of the said order, I have entertained these Applications.

3. The present bail applications relate to C.R.No.291/1999 registered at Mumbra Police Station, C.R. No.15/2000 registered at Ratnagiri City Police Station, C.R.No.254/2001 registered at Naupada Police Station, Thane City, and C.R.No.200/2000 registered at Shahupuri Police Station, Kolhapur. The cases have been registered against the Applicant and other co-accused for offences punishable under sections 406, 420, read with section 34 of the Indian Penal Code and section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (hereinafter

referred to as the said Act of 1999). The allegation against the Applicant is that he is one of the Directors of the Galaxy Growfin Ltd. According to the case of the prosecution, all the Directors of the said company invited the members of public to invest money with the company and large amounts have been invested with the said company by members of public. The company defaulted in making repayment. As a result, 26 offences have been registered against the Applicant at different places in the State of Maharashtra. The offences which are the subject matter of these bail applications are some of the offences out of those 26 offences.

4. The learned Counsel for the Applicant drew my attention to the order dated 24th February 2004 passed by the 4th Addl.Sessions Judge, Nagpur, by which the Applicant has been ordered to be enlarged on bail in connection with C.R.No.244 of 1999 registered at Bhandara Police Station. He submitted that even according to the record maintained by the Registrar of Companies, the Applicant resigned as a Director of the Company with effect from 30th September, 1998. He submitted that considering the fact that the offences related to the period before the date on which the said Act of 1999 came into force, the Applicant is entitled to be enlarged on bail. He submitted that in the year 1996, the Applicant was appointed as an Office Assistant with the said company and was, thereafter, promoted as a

Branch Manager, Area Manager etc. The learned A.P.P. appearing for the State have opposed the prayer by pointing out that the other Directors of the said company have been absconding. They submitted that large amounts are involved in the present offences registered against the Applicant and the co-accused. It is submitted that at the time of trial it will be difficult to procure presence of the Applicant who is staying in the State of U.P. It is submitted that considering the magnitude of the offences, the Applicant cannot be enlarged on bail.

5. I have considered the submissions. The learned A.P.P. stated that the Investigating Officer has verified from the office of the Registrar of Companies, Kanpur regarding the genuineness of Form No.32 under the Companies Act, 1956 annexed to the above Applications. He placed on record for my perusal a letter received from the Registrar of Companies for U.P. as regards the filing of Form No.32. Form No.32 on the record of the Registrar of Companies indicates that the Applicant resigned as a Director of the said company from 30th September, 1998. Therefore, even assuming that the Applicant was a Director of the Company, he ceased to be a Director with effect from 30th September, 1998. The learned A.P.P. could not dispute that the offence registered against the Applicant at Bhandara Police Station is not different from the offences with which we

are concerned in these bail applications. While enlarging the Applicant on bail, the learned Additional Sessions Judge, Nagpur has noted that though the Applicant is in custody from 10th January, 2004 no recovery has been made at his instance and the Applicant has been in judicial custody. The said Act of 1999 has come into force after the Applicant ceased to be a director of the company. As the Applicant has been ordered to be enlarged on bail by the Sessions Court at Nagpur for similar offence, the Applicant deserves to be enlarged on bail for the offences registered which are the subject matter of these Applications. To ensure presence of the Applicant, he can be ordered to furnish local sureties and other stringent conditions can be imposed.

6. In view of the above, the following order is passed:

CRIMINAL APPLICATION NO.4432 OF 2005

(i) The Applicant shall be enlarged on bail on his furnishing P.R.Bond in the sum of Rs.50,000/- in connection with C.R.No.291/1999 of Mumbra Police Station, Thane with one or two local sureties in the like amount.

(ii) The order granting bail will be given effect to only after the Applicant

communicates to the Investigating officer his detailed address of the place where he intends to stay after he is enlarged on bail.

(iii) The bail is granted subject to condition that if the Applicant is holding a passport, he will surrender the same to the Investigating officer before effect is given to this order.

(iv) The bail is granted subject to further condition that the Applicant will attend the office of the C.I.D. Flying Squad, Maharashtra State, Pune, on the first Sunday of every calender month from 10.00 a.m. to 1.00 p.m.

(v) The bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(vi) The Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by

the Applicant to delay the trial may be a ground for cancellation of bail.

(vii) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(viii) Application is disposed of in above terms.

CRIMINAL APPLICATION NO.4433 OF 2005

(i) The Applicant shall be enlarged on bail on his furnishing P.R.Bond in the sum of Rs.50,000/- in connection with C.R.No.15/2000 of Ratnagiri City Police Station with one or two local sureties in the like amount.

(ii) The order granting bail will be given effect to only after the Applicant communicates to the Investigating officer his detailed address of the place where he intends to stay after he is enlarged on bail.

(iii) The bail is granted subject to condition

that if the Applicant is holding a passport, he will surrender the same to the Investigating officer before effect is given to this order.

(iv) The bail is granted subject to further condition that the Applicant will attend the office of the C.I.D. Flying Squad, Maharashtra State, Pune, on the first Sunday of every calender month from 10.00 a.m. to 1.00 p.m.

(v) The bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(vi) The Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

(vii) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of

the case at the time of trial.

(viii) Application is disposed of in above terms.

CRIMINAL APPLICATION NO.4434 OF 2005

(i) The Applicant shall be enlarged on bail on his furnishing P.R.Bond in the sum of Rs.50,000/- in connection with C.R.No.254/2001 of Naupada Police Station, Thane City, with one or two local sureties in the like amount.

(ii) The order granting bail will be given effect to only after the Applicant communicates to the Investigating officer his detailed address of the place where he intends to stay after he is enlarged on bail.

(iii) The bail is granted subject to condition that if the Applicant is holding a passport, he will surrender the same to the Investigating officer before effect is given to this order.

(iv) The bail is granted subject to further

condition that the Applicant will attend the office of the C.I.D. Flying Squad, Maharashtra State, Pune, on the first Sunday of every calender month from 10.00 a.m. to 1.00 p.m.

(v) The bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(vi) The Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

(vii) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(viii) Application is disposed of in above terms.

CRIMINAL APPLICATION NO.4435 OF 2005

(i) The Applicant shall be enlarged on bail on his furnishing P.R.Bond in the sum of Rs.50,000/- in connection with C.R.No.200/2000 of Shahupuri Police Station, Kolhapur, with one or two local sureties in the like amount.

(ii) The order granting bail will be given effect to only after the Applicant communicates to the Investigating officer his detailed address of the place where he intends to stay after he is enlarged on bail.

(iii) The bail is granted subject to condition that if the Applicant is holding a passport, he will surrender the same to the Investigating officer before effect is given to this order.

(iv) The bail is granted subject to further condition that the Applicant will attend the office of the C.I.D. Flying Squad, Maharashtra State, Pune, on the first Sunday of every calender month from 10.00

a.m. to 1.00 p.m.

(v) The bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(vi) The Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

(vii) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(viii) Application is disposed of in above terms.

Judge.